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19 Attorneys for Defendant  
20 HOMAX PRODUCTS, INC.

21 **IN THE UNITED STATES DISTRICT COURT**

22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

23 SAN FRANCISCO TECHNOLOGY INC.,

24 Case No. 10 CV-02994-JF

25 Plaintiff,

26 v.

27 AERO PRODUCTS INTERNATIONAL  
28 INC., BP LUBRICANTS USA INC., BRK  
29 BRANDS INC., CALICO BRANDS INC.,  
30 COOPER LIGHTING LLC, DAREX LLC,  
31 DEXAS INTERNATIONAL LTD., DYNAGRO  
32 NUTRITION SOLUTIONS, FISKARS  
33 BRANDS INC., GLOBAL CONCEPTS INC.,  
34 HOMAX PRODUCTS INC., KIMBERLY-CLARK  
35 CORPORATION, KRACO ENTERPRISES LLC,  
36 LIXIT CORPORATION, MEAD WESTVACO  
37 CORPORATION, NUTRITION 21 INC.,

38 **DECLARATION OF ROSS CLAWSON IN  
39 SUPPORT OF HOMAX PRODUCTS,  
40 INC.'S MOTIONS TO DISMISS  
41 PURSUANT TO RULES 12(B)(1) AND  
42 12(B)(6)**

43 Judge: Hon. Judge Jeremy Fogel  
44 Date: October 1, 2010  
45 Time: 9:00 a.m.  
46 Courtroom: Courtroom 3, 5th Floor

1 OATEY CO., OPTIMUM TECHNOLOGIES  
2 INC., NEWELL RUBBERMAID INC.,  
3 SCHICK MANUFACTURING INC., THE  
4 SCOTTS COMPANY LLC, STERLING  
5 INTERNATIONAL INC., VITAMIN  
POWER INCORPORATED,  
WOODSTREAM CORPORATION, 4-D  
DESIGN INC.,

6 Defendants.  
7  
8

9 I, Ross Clawson, declare and state as follows:

10 1. I am the President of Homax Products, Inc., which is a Delaware corporation with  
11 corporate headquarters at 200 Westerly Road, Bellingham, Washington 98226 (hereinafter,  
12 "Homax").

13 2. I have been associated with Homax for 17 years, and I have held my current  
14 position since 1999. I am authorized to make this Declaration on behalf of Homax.

15 3. In my capacity as President of Homax Products, Inc., I have developed a broad  
16 knowledge of the products that the company sells. I am also familiar with the competitors and  
17 competing products in the marketplace.

18 4. As pertains to Homax, the Complaint filed by San Francisco Technology Inc. in  
19 the above-captioned case mentions only two Homax products by name—the Homax Orange Peel  
20 & Knockdown Ceiling Texture Vertical Spray product and the Homax Acoustic Patch Ceiling  
21 Repair product. (See Dkt. 1, Compl. ¶¶ 105-09.) Products such as these can be referred to  
22 generally as aerosol spray texture consumer products.

23 5. Homax's primary competitor in the marketplace for aerosol spray texture  
24 consumer products has been a company called Spraytex, Inc. ("Spraytex"). Spraytex itself  
25 owned a large portfolio of its own patents including many related to aerosol spray texture  
26 consumer products.

27 6. U.S. Patent No. 4,802,057 is neither a Homax patent nor is it a patent number  
28

1 marked upon either the Homax Orange Peel & Knockdown Ceiling Texture Vertical Spray  
2 product or the Homax Acoustic Patch Ceiling Repair product.

3       7. The Homax Orange Peel & Knockdown Ceiling Texture Vertical Spray product  
4 and the Homax Acoustic Patch Ceiling Repair product are both relatively durable consumer  
5 products with long shelf-lives. Neither of these products are subject to spoilage.

6       8. I have personal knowledge of the matters stated herein. If called as a witness, I  
7 could and would testify competently to the matters stated herein.

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9       The statements herein are made of my own knowledge and are true. I understand that  
10 willful false statements are punishable by fine or imprisonment or both under 18 U.S.C. § 1001.

11

12 Dated: August 12, 2010



13 Ross Clawson

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